

UNITED STATES DISTRICT COURT  
DISTRICT COURT OF MINNESOTA  
Cr. 20-302 (ADM)

-----  
UNITED STATES OF AMERICA,  
Plaintiff,

v.

**DEFENDANT'S POSITION PAPER  
AS TO SENTENCING FACTORS**

DAMIEN LASHAUN NELSON,  
Defendant.  
-----

Damien Nelson is a thirty two year man who lives with schizophrenia, a severe mental health disability that has certainly played a significant role in the criminal activity which has characterized Damien's young life. His forty two criminal history points attest to his obsessions with control over and violence toward women, and possession of firearms. He faces sentencing in Dakota County on August 23, 2021 due to the former, and will be before this Court for sentencing on September 23, 2021 for the latter.

Damien has agreed to a sentence of 280 months in Dakota County, with good time and time served, his real time sentence is slated to be about 14 years and seven months.<sup>1</sup> He asks the Court in the present matter to sentence him to 120 months of incarceration to run concurrently with his state sentence. He asks that he be committed to the Bureau of Prisons following his sentencing hearing in the present case so that he can complete his federal sentence and subsequently be transferred to custody of the Minnesota Department of Corrections to finish what appears to be the last 73 months of his state sentence. As he has been in primary custody with the state of Minnesota, he will not receive federal jail credit for the approximate 7 months that he has housed at the Sherburne County on a writ from state custody. Under this request, he will be released from incarceration on the federal and state cases just shy of his fiftieth birthday.

The Supreme Court says: "it has been uniform and constant in the federal judicial tradition for the sentencing judge to consider each convicted person as an individual and each case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue." *Koon v. United States*, 518 U.S. 81, 113 (1996)

In order to consider Damien as an individual and to understand his failings, the Court should be aware of his mental illness and the hallmarks of that illness. Mental illness is unfortunately poorly understood; science has not discovered the cause of the illnesses and

---

<sup>1</sup> Damien Nelson's plea agreement in Dakota County is being filed separately, along with two letters of support.

treatment is best described as hit and miss. Diagnosis is difficult in the absence of visible physical indications of the illness.

One sure way to reach a diagnosis begins with the medications that have been prescribed to the individual and then to consider the conditions for which the medicines are indicated. In Damien's case, he has been prescribed haloperidol, a powerful anti-psychotic medicine indicated for those who live with schizophrenia.

*"Haloperidol is a medication that works in the brain to treat schizophrenia. It is also known as a first generation antipsychotic (FGA) or typical antipsychotic. Haloperidol rebalances dopamine to improve thinking, mood, and behavior.*

*Symptoms of schizophrenia include:*

- *Hallucinations — imagined voices or images that seem real*
- *Delusions — beliefs that are not true (e.g., other people are reading your thoughts)*
- *Disorganized thinking or trouble organizing your thoughts and making sense*
- *Little desire to be around other people*
- *Trouble speaking clearly*
- *Lack of motivation"*<sup>2</sup>

Schizophrenia is a reality for many and can be a terrifying condition for some of us who live with it. We, as a society, need to move beyond the times when those of us with mental health difficulties are locked up with no effort at meaningful treatment. We need to recognize that conditions like schizophrenia actually exist and are not simply invented by those who must live with them.

When Damien was first incarcerated at the Sherburne County jail, his behavior was marked by suicide ideation, bizarre behavior including smearing feces on walls, disorganized thoughts, and delusions. In recent months, his behavior has improved considerably, a tribute to the salutary properties of his medication. However, he continues to have a disturbingly flat affect, a dullness to his being which is apparent when speaking with him. Given the seriousness of his condition, the length of time he went untreated, and the lingering symptoms, it is requested that the Court recommend that he be sent to the medical facility at Rochester for diagnoses and if different medications are prescribed, that he be monitored there for potential side effects that are unfortunately common to anti-psychotic medications. It would certainly benefit his mental health if, for the first time in his life, Damien had a mental health provider with whom he could develop a therapeutic relationship.

Damien Nelson will be committed to the custody of the Bureau of Prisons and the State of Minnesota Department of Corrections who will be charged with caring for his mental health. The

---

<sup>2</sup> National Alliance on Mental Illness (NAMI) website

easy way to deal with his issues is to claim that his symptoms are nothing but invented stories to get around rules or to gain undeserved sympathy. However people do not take anti-psychotic medications on whims. These are powerful drugs with significant potential for adverse side effects. Their continued use requires professional monitoring. A competent mental health provider would not prescribe an anti-psychotic drug if it weren't warranted.

## *What Are Possible Side Effects Of Haloperidol?*

### **Common side effects**

*Rapid heartbeat, constipation, blurry vision, dry mouth, drop in blood pressure upon standing*

*Feeling drowsy, dizzy, or restless*

*Patients receiving haloperidol decanoate long-acting injection may notice some pain at the site of the injection. This pain should resolve after a few days.*

### **Rare/serious side effects**

*Haloperidol may increase the blood levels of a hormone called prolactin. Side effects of increased prolactin levels include females losing their period, production of breast milk and males losing their sex drive or possibly experiencing erectile problems. Long term (months or years) of elevated prolactin can lead to osteoporosis or increased risk of bone fractures.*

*Some people may develop muscle related side effects while taking haloperidol. The technical terms for these are "extrapyramidal symptoms" (EPS) and "tardive dyskinesia" (TD). Symptoms of EPS include restlessness, tremor, and stiffness. TD symptoms include slow or jerky movements that one cannot control, often starting in the mouth with tongue rolling or chewing movements.*

*Temperature regulation: Impaired core body temperature regulation may occur; caution with strenuous exercise, heat exposure, and dehydration.*

*All antipsychotics have been associated with the risk of sudden cardiac death due to an arrhythmia (irregular heart beat). To minimize this risk, antipsychotic medications should be used in the smallest effective dose when the benefits outweigh the risks. Your doctor may order an EKG to monitor for irregular heartbeat.*

*Neuroleptic malignant syndrome is a rare, life threatening adverse effect of antipsychotics which occurs in <1% of patients. Symptoms include confusion, fever, extreme muscle stiffness, and sweating. If any of these symptoms occur, contact your healthcare provider immediately.*

*All antipsychotics can cause sedation, dizziness, or orthostatic hypotension (a drop in blood pressure when standing up from sitting or lying down). These side effects may lead to falls which could cause bone fractures or other injuries. This risk is higher for people with conditions or other medications that could worsen these effects. If falls or any of these symptoms occur, contact your healthcare provider.*

## *Are There Any Risks For Taking Haloperidol For Long Periods Of Time?*

*Tardive dyskinesia (TD) is a side effect that develops with prolonged use of antipsychotics. If you develop symptoms of TD, such as grimacing, sucking, and smacking of lips, or other movements that you cannot control, contact your healthcare provider immediately. **All patients taking either first or second generation antipsychotics should have an Abnormal Involuntary Movement Scale (AIMS) completed regularly by their healthcare provider to monitor for TD.***<sup>3</sup>

These antipsychotic medications are only superficially understood by the medical community, but what is clear is that they can work to alleviate symptoms. The proof that Damien needs to take anti-psychotic medication is the improvement in his mental health since starting the course of treatment. He should be given a thorough mental health evaluation so that his mental health concerns can be treated in the most effective possible, for his sake and for the sake of society at large. One day, when he close to fifty years old, Damien will be released from incarceration. An effort should be made now to see that a healthy individual walks out of prison, not one suffering from years of psychosis and isolation.

*By seeking and blundering we learn.*<sup>4</sup>

That Damien has been offered treatment in the past and has refused it, should not used as a reason to withhold future treatment. It is a hallmark of mental illness that those with mental health issues deny that they are ill and reject help. It simply is part of the nature of the illness. Establishing a trusting relationship with a mental health provider is essential. Even then, medication compliance can be difficult. Without the trusting relationship, an individual who is delusional and whose thinking is disorganized, has little chance of maintaining good mental health on his or her own. Schizophrenia is not a condition that can be self treated, Damien needs professional assistance to treat his condition and to teach him how to live with what is a serious disability.

Damien's mother and siblings continue to support him despite his long series of major mistakes. Located in both Minneapolis and Memphis, his family has asked to be updated on his situation and expresses their wish for Damien's best and their commitment to do what they can to help him. Damien's father, however, has never made significant commitment to his son and as a result there is no meaningful father-son relationship.

One letter filed with the Court is from a woman with whom Damien has a son.

*"I only witnessed kindness from him, in every aspect of our lives. He was a good Father figure to my boys, always very loving and gentle to them and to me."*

Another letter submitted to the Court is from an ex-wife in which she speaks to Damien's interest and concern for his children, whom, in her worlds, *he loves and adores*.

---

<sup>3</sup>Id

<sup>4</sup> Johann Wolfgang Von Goethe

She also speaks of the importance of Damien being compliant with his medicine and also of the hurdles that Damien faces in pursuing a career.

*“Damien has been on meds that seemed to help him when taken appropriately with his way of thinking. He’s not dumb, he has graduated high school and was actually in school at one point doing nursing stuff until he found out he wouldn’t be able to pursue that with his past criminal record.”*

Apart from the unique characteristics of a defendant, a Court also considers the nature and circumstances of the crime for which the defendant is punished. Damien has accepted responsibility for using women by convincing them to purchase firearms for him. He has equally accepted responsibility for possession of a sawed-off shotgun recovered from his residence. He agrees that a ten year sentence is sufficient, but not greater than necessary, to provide just punishment for his crimes.

Damien raises the following objection to the Presentence Investigation Report.

#20. As the AUSA will agree, Damien’s fingerprints were not found on the revolver recovered in Eden Prairie.

#33. Again anticipating agreement by the AUSA, no enhancement under USSG 2K2. 1 (b)(4) (A) should apply as neither the shotgun nor the revolver were stolen.

#100. Damien graduated from high school in Memphis.

Respectfully submitted,

August 21, 2021

s/ Kevin M. O’Brien #80561  
Attorney for Damien Nelson